

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

MANUEL RIVERA SANCHEZ,

Complainant,

and

SCHOOL DISTRICT NO. 47,  
CRYSTAL LAKE,

Respondent.

CHARGE NO(S): 2006CA0544

EEOC NO(S): 21BA53080

ALS NO(S): 07-223

## NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case.

Accordingly, pursuant to Section 8A-103(A) and/or 8b-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

Entered this 23<sup>rd</sup> day of August 2010

N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR



Illinois. Complainant urinated with his back to the classroom window so as not to expose himself to people in the classroom. Nevertheless, the classroom teacher, Eva Gobtop, the teacher's assistant, Dee Rizleris, and the students all observed Complainant from the window and knew that he was urinating.

3. While Complainant was urinating, Ms. Gobtop and Ms. Rizleris complained to the school principal, Lori Sorensen, by intercom. Ms. Gobtop and Ms. Rizleris reiterated their complaint to Ms. Sorensen by memorandum dated April 24, 2003.

4. Ms. Sorensen contacted Ed Davis, the custodial supervisor, who met with Complainant about the incident. Mr. Davis arranged for a Spanish translator to attend his meeting with Complainant.

5. Respondent terminated Complainant by letter dated April 25, 2003.

6. Prior to the urinating incident, Complainant had been meeting Respondent's performance expectations.

7. On September 7, 2005, Complainant filed a charge of discrimination against Respondent with the Department. Complainant alleges that Respondent terminated him as a result of unlawful age and disability discrimination. Respondent denies Complainant's allegations.

#### CONCLUSIONS OF LAW

1. The alleged discriminatory act, Complainant's termination, took place more than 180 days prior to the date on which Complainant filed his charge of discrimination.

2. Complainant's charge of discrimination was untimely filed.

3. This tribunal lacks jurisdiction to consider the merits of Complainant's allegations due to the untimely filing of the charge.

4. As a matter of law, the Motion must be granted, and the complaint and underlying charge must be dismissed in their entirety with prejudice.

## DISCUSSION

### I. SUMMARY DECISION STANDARD

Under section 8-106.1 of the Illinois Human Rights Act ("Act"), either party to a complaint may move for summary decision. 775 ILCS 5/8-106.1. A summary decision is analogous to a summary judgment in the Circuit Courts. Cano v. Village of Dolton, 250 Ill. App. 3d 130, 138, 620 N.E.2d 1200, 1206 (1<sup>st</sup> Dist. 1993). A motion for summary decision should be granted when there is no genuine issue of material fact and the moving party is entitled to a recommended order in its favor as a matter of law. Fitzpatrick v. Human Rights Comm'n, 267 Ill. App. 3d 386, 391, 642 N.E.2d 486, 490 (4<sup>th</sup> Dist. 1994). Inasmuch as summary decision is a drastic means for resolving litigation, the movant's right to a summary decision must be clear and free from doubt. Purtill v. Hess, 111 Ill.2d 229, 240 (1986).

### II. COMPLAINANT'S CHARGE WAS UNTIMELY FILED

Section 7A-102(A) of the Act governs the procedures for filing charges of discrimination. Its timeliness rule is clear; charges must be filed within 180 days of the alleged discriminatory action. 775 ILCS 5/7A-102(A)(1). The 180-day time period is a jurisdictional requirement. Larrance v. Human Rights Comm'n, 166 Ill. App. 3d 224, 231-33, 519 N.E.2d 1203, 1208-10 (4<sup>th</sup> Dist. 1988).

In this case, Complainant filed his charge well beyond the 180-day time period. Respondent terminated Complainant on April 25, 2003 after the urinating incident. The record shows that Complainant filed his charge on September 7, 2005. Complainant has provided no justification for the two-year delay between his termination and the filing of his charge. Indeed, Complainant has filed no response whatsoever to Respondent's Motion. Therefore, there is no genuine issue of material fact regarding the timeliness of Complainant's charge; it was clearly untimely. As a result, this tribunal lacks jurisdiction to consider the merits of his allegations as a matter of law.

### RECOMMENDATION

Based on the foregoing, there is no genuine issue of material fact regarding the timeliness of Complainant's charge of discrimination. Complainant's two-year delay in filing his charge renders his charge untimely and deprives this tribunal of jurisdiction to consider the merits of his allegations. Accordingly, it is recommended that: 1) Respondent's Motion for Summary Decision be granted; and 2) the complaint and underlying charge be dismissed in their entirety with prejudice.

**HUMAN RIGHTS COMMISSION**

**BY: \_\_\_\_\_**

**LESTER G. BOVIA, JR.  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION**

**ENTERED:** October 20, 2009